

Sixth Appellate District

San Jose, California

MONDAY, DECEMBER 16, 2002

H024949 JAIME P., et al. v. SUPERIOR COURT OF SANTA CLARA COUNTY
The petitions for extraordinary writ are denied. (not published)

(Rushing, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 16, 2002

H024037 In re ERIK P.; DFCS v. SAMPHAN P.

The order appealed from is affirmed. (published)

(Rushing, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed December 16, 2002

H022779 SUTTER'S PLACE, INC., et al. v. CITY OF SAN JOSE

By the Court:

Appellants' petition for rehearing is denied.
(Bamattre-Manoukian, Acting P.J. and Mihara, J. participated in this decision. Rushing, J. would grant rehearing.)

Filed: December 16, 2002

TUESDAY, DECEMBER 17, 2002

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; Wunderlich, J.; and Beth Miller, Deputy Clerk.

H023606 PEOPLE v. CHRISTOPHER C.

Cause called and argued by William Robinson appearing for Appellant and by Matthew P. Boyle, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023600 PEOPLE v. SOLIZ

Cause called and argued by Thomas Shigemoto appearing for Appellant and by Ryan B. McCarroll, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H022280 PEOPLE v. LYTLE

Cause called and argued by Dan Mrotek appearing for Appellant and by David H. Rose, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, December 17, 2002 (Continued)

H021907 PEOPLE v. VANDERSTEEN

Cause called and argued by Gordon B. Scott appearing for Appellant and by Mark S. Howell, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023634 PEOPLE v. BELLUCCI

Cause called and argued by Andrew C. Janecki appearing for Appellant and by James Panetta, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023445 AMALGAMATED TRANSIT UNION, LOCAL 265, et al. v. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, et al.

Cause called and argued by William J. Flynn appearing for Appellants and by Richard Alan Katzman appearing for Respondents. Cause ordered submitted. Court adjourns.

H023364 NOGHREY, et al. v. PEACOCK, et al.

The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed December 17, 2002

H023348 PEOPLE v. STEVEN A.

The juvenile court's order is reversed. The findings on the Penal Code section 871 and 148 allegations are vacated. The matter is remanded for further proceedings on those two allegations. After those allegations are resolved, the trial court shall hold a new dispositional hearing at which it shall declare whether the firearm offenses are misdemeanors or felonies. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)
Filed December 17, 2002

H022810 PEOPLE v. GONZALES

The judgment is affirmed. (not published)
(Elia, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed December 17, 2002

Sixth Appellate District

San Jose, California

WEDNESDAY, DECEMBER 18, 2002

H023495 PEOPLE v. MAHAN

The probation condition that defendant not go to places where alcohol is a major item of sale is stricken. In all other respects, the judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)
Filed December 18, 2002

H024160 PEOPLE v. MARTINEZ

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)
Filed December 18, 2002

H022748 SHERMAN v. MASTER PROTECTION CORPORATION

The judgment and post-judgment orders are affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Premo, J., Mihara, J.)
Filed December 18, 2002

THURSDAY, DECEMBER 19, 2002

H023966 PEOPLE v. SUPERIOR COURT; MARTINEZ

Let a peremptory writ of mandate issue directing respondent to vacate its order granting probation and to enter a new order that complies with section 1210.1, subdivision (b)(1).
(published)
(Rushing, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed December 19, 2002

H021716 PEOPLE v. RAMIL

By the Court*:

Appellant's petition for rehearing is denied.
Filed: December 19, 2002

*Before Bamattre-Manoukian, Acting P.J. and Mihara, J. Rushing, J. would grant rehearing.

Sixth Appellate District

San Jose, California

Thursday, December 19, 2002 (Continued)

H023047 PEREIRA v. SOUTH BAY CIRCUITS, INC.

The judgment in favor of South Bay Circuits, Inc. is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; I concur: Mihara, J.;
Dissenting opinion by Rushing, J.)

Filed December 19, 2002

H025079 CHRISTA T. v. SUPERIOR COURT; HUMAN RESOURCES AGENCY

The petitions are denied. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed December 19, 2002

H024273 PEOPLE v. TITUS

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed December 19, 2002

FRIDAY, DECEMBER 20, 2002

H024144 PEOPLE v. RAMIREZ

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Premo, J., Mihara, J.)

Filed December 20, 2002

H023068 PEOPLE v. MCGHEE

By the Court*:

Appellant's petition for rehearing is denied.

Filed: December 20, 2002

*Before Premo, Acting P.J., and Elia, J.

H023592 PEOPLE v. LABORE

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)

Filed December 20, 2002

Sixth Appellate District

San Jose, California

Friday, December 20, 2002 (Continued)

H023445 AMALGAMATED TRANSIT UNION LOCAL 265, et al. v. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, et al.

We affirm the judgment in favor of VTA. We reverse the judgment in favor of Pension Board, and direct that judgment be entered in favor of the Union on its action for declaratory relief. We hold that as to those portions of the Pension Board's meetings where the Board considers individual service retirement applications, closed sessions are permissible under Government Code section 54957. The parties are to bear their own costs.

(not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed December 20, 2002

H023738 PEOPLE v. HILL

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed December 20, 2002

H022447 PEOPLE v. JOHNSON

The evidence was insufficient to support defendant's conviction for indecent exposure (Count 2). The judgment is reversed, and the matter is remanded for resentencing on Count 5. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)

Filed December 20, 2002

H024025 PEOPLE v. ARROYO

The judgment is modified to stay the term imposed on count six for making a terrorist threat (Pen. Code, § 422). In all other respects the judgment is affirmed. (not published)

(Elia, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)

Filed December 20, 2002

Sixth Appellate District

San Jose, California

Friday, December 20, 2002 (Continued)

H022179 MALLERY-FEINER CO. v. TERSOL, et al.

The judgment is reversed. The trial court is directed to strike the award of \$7,500 in attorney's fees and recalculate the amount of profits. Each party to bear its own costs. (not published)

(Mihara, J.; I concur: Bamattre-Manoukian, Acting P.J.;

Concurring and dissenting opinion by Rushing, J.)

Filed December 20, 2002

H023028 PEOPLE v. WHITAKER

The judgment is reversed and the matter is remanded for resentencing. The enhancement allegation for use of a deadly weapon (§ 12022, subd. (b)(1)) associated with count 2 is stricken. Upon remand, the trial court shall impose a restitution fine of no more than \$10,000 and it shall stay the term for either count 1 (criminal threats, § 422) or count 2 (assault with a deadly weapon or by means of force likely to produce great bodily injury, § 245, subd. (a)(1)). Upon resentencing defendant, the trial court shall not impose an aggregate sentence greater than the original sentence of 25 years to life plus 8 years. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed December 20, 2002

MISC. ORDER 95-2 (amended 1/1/03)

IT IS HEREBY ORDERED that all briefs filed in compliance with California Rules of Court, rules 15 & 37 shall not incorporate any additional material as part of the brief other than that specified by rule 14(d). Documents not a part of the record on appeal may be submitted to the court with the appropriate motion (California Rules of Court, rules 41 and 22). Dated December 20, 2002 Bamattre-Manoukian, Administrative P.J.

MISC. ORDER 95-1

IT IS HEREBY ORDERED that Misc. Order 95-1 is vacated effective January 1, 2003.

Dated December 20, 2002 Bamattre-Manoukian, Administrative P.J.